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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,668	09/04/2003	Brian Rosenfeld	2483-001CIP1	5368
22208	7590	06/13/2006	EXAMINER	
ROBERTS ABOKHAIR & MARDULA SUITE 1000 11800 SUNRISE VALLEY DRIVE RESTON, VA 20191			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/654,668	Applicant(s) ROSENFELD ET AL.	
	Examiner Robert W. Morgan	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/8/05, 6/27/05, 2/23/06, 11/4/03 and 5/8/06</u> | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statements filed 11/4/03, 6/8/05, 6/27/05, 2/23/06, 3/6/06 and 5/8/06 have been acknowledged and entered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,772,585 to Lavin et al.

As per claim 1, Lavin et al. teaches a process for generation of physician notes for patient management via a programmable machine, the process comprising:

--the claimed inputting patient health data reflecting a current state of the patient and treatment objectives for the patient via formatted input options is met by the physician entering progress notes including subjective observation of the patient through actual examination and assessment notes listing conclusions based on the subjective and objective observation as well as a treatment plan are also presented at step 162 (see: column 9, lines 29-40);

--the claimed receiving the patient health data in a healthcare system is met by the workstation (14, Fig. 1) using graphic user interface data entry screens to receive new or existing patient information (see: column 7, lines 12-25);

--the claimed creating a customized healthcare profile based on the patient health data is met by the physician entering customized data relating the specific treatment, vaccines, or other tailored information at step 166 (see: column 9, lines 48-51);

--the claimed making the patient health data available throughout the healthcare system is met by the multiple clinic personnel and physician accessing various aspects of common database information regarding a specific patient or a group of patients (see: column 4, lines 8-10); and

--the claimed remotely programming therapeutic monitoring and delivery systems to provide care to the patient is met by each workstation (14, Fig. 1) either being fixed or a portable computer such as the IBM ThinkPad capable of executing a computer program and processing information input to the computer (see: column 4, lines 43-55).

As per claim 2, Lavin et al. teaches:

--the claimed inputting patient health data comprises inputting data on remote devices from group consisting of wired devices and wireless devices. This limitation is met by the each workstation (14, Fig. 1) either being fixed or a portable computer such as the IBM ThinkPad capable of executing a computer program and processing information input to the computer (see: column 4, lines 43-55).

As per claim 3, Lavin et al. teaches:

--the claimed receiving the patient health data in a healthcare system comprises time stamping the patient health data when it is released by a physician is met by the progress notes screen (200, Fig. 2) that receives and stores subjective and objective data by date and time, entered by the physician (see: column 12, lines 8-25);

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--the claimed storing the time stamped patient health data throughout the patient care system is met by the progress notes screen (200, Fig. 2) that receives and stores subjective and objective data by date and time, entered by the physician (see: column 12, lines 8-25).

As per claim 4, Lavin et al. teaches:

--the claimed remotely programming therapeutic monitoring systems comprises setting smart alarms automatically in patient monitoring systems based on the time stamped patient health data. The feature is met by the physician entering progress notes including assessment notes listing conclusions based on the subjective and objective observation at step 162 (see: column 9, lines 29-40). The Examiner considers the assessment conclusions (diagnosis or smart alarms) to be based on the subjective and objective observation inputted into the computer. In addition, Lavin et al. that each workstation (14, Fig. 1) either being fixed or a portable computer such as the IBM ThinkPad capable of executing a computer program and processing information input to the computer (see: column 4, lines 43-55).

As per claim 5, Lavin et al. teaches a physician note system for entering patient health data:

--the claimed patient health data input device is met by the each workstation (14, Fig. 1) either being fixed or a portable computer (see: column 4, lines 43-55);

--the claimed patient healthcare system connected to the patient health data input device is met by each workstation (14, Fig. 1) in the system (10, Fig. 1) adapted to operate in communication with server (12, Fig. 1) (see: column 4, lines 45-47);

--the claimed structured data elements stored in the patient healthcare system, the structured data elements adapted to be made available to the patient health data input device is

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met by the information entered during a clinical visit via physician being temporarily stored in the workstation (14, Fig. 1) memory (20, Fig. 1) and more permanently maintained in the server (12, Fig. 1) and also retrieved using patient identification information (see: column 9, lines 41-57);

--the claimed means for completing and releasing applicable structured data elements is met by selecting and completing a diagnosis using the diagnosis screen (226, Fig. 17) (see: column 13, lines 29-30) In addition, Lavin et al. teaches at the completion of the progress note task, the physician saves the notes and the processor (22, Fig. 2) will direct the entered information into the appropriate data tables in memory (20, Fig. 2) (see: column 11, lines 57-60); and

--the claimed instructions in the patient healthcare system for making the released structured data elements to users having access to the patient healthcare system is met by the common graphic user interface used by system (10, Fig. 1) that allows authorized user to manage medical information and provides physician with useful diagnosis tools (instructions) to assist in examination and diagnosis of the patient (see: column 16, lines 6-10).

As per claim 6, Lavin et al. teaches:

--the claimed patient health data input device comprises devices taken from the group consisting of wired devices and wireless devices. This limitation is met by the each workstation (14, Fig. 1) either being fixed or a portable computer such as the IBM ThinkPad capable of executing a computer program and processing information input to the computer (see: column 4, lines 43-55).

As per claim 7, Lavin et al. teaches:

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--the claimed means for completing and releasing applicable structured data elements further comprises means for time stamping the patient health data when it is release by a physician is met by selecting and completing a diagnosis using the diagnosis screen (226, Fig. 17) (see: column 13, lines 29-30) In addition, Lavin et al. teaches at the completion of the progress note task, the physician saves the notes and the processor (22, Fig. 2) will direct the entered information into the appropriate data tables in memory (20, Fig. 2) (see: column 11, lines 57-60). Furthermore, Lavin et al. teaches that the progress notes screen (200, Fig. 2) that receives and stores subjective and objective data by date and time, entered by the physician (see: column 12, lines 8-25); and

--the claimed storing the time stamped patient health data throughout the patient care system is met by the progress notes screen (200, Fig. 2) that receives and stores subjective and objective data by date and time, entered by the physician (see: column 12, lines 8-25).

As per claim 8, Lavin et al. teaches:

--the claimed means for remotely programming therapeutic monitoring systems comprising setting smart alarms automatically in patient monitoring systems based on the time stamped patient health data. The feature is met by the physician entering progress notes including assessment notes listing conclusions based on the subjective and objective observation at step 162 (see: column 9, lines 29-40). The Examiner considers the assessment conclusions (diagnosis or smart alarms) to be based on the subjective and objective observation inputted into the computer. In addition, Lavin et al. that each workstation (14, Fig. 1) either being fixed or a portable computer such as the IBM ThinkPad capable of executing a computer program and processing information input to the computer (see: column 4, lines 43-55).

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

In related art (5,924,074) Evans disclose a medical record system that creates and maintains all patient data electronically.

In related art (5,296,688) Hamilton et al. teaches an apparatus and method for reporting progress notes includes a system wherein a collection of bar encoded input data is selectively scanned by a portable hand-held wand.

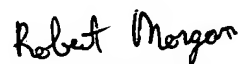
In related art (6,338,039) Lonski et al. shows a method and apparatus that automates various reports for a psychotherapy provider.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert Morgan  
Patent Examiner  
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